

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON, AT SEATTLE

BOARD OF TRUSTEES OF THE EMPLOYEE
PAINTERS' TRUST, *et al.*,

Plaintiffs,

vs.

MARIN BROS., INC., *et al.*,

Defendants.

CASE NO.: 2:23-cv-00483-TL

**STIPULATION AND ORDER TO
STAY PROCEEDINGS**

Noting Date: May 7, 2024

The Plaintiffs, Board of Trustees of The Employee Painters' Trust, *et al.* (collectively the "Plaintiffs"), and Defendants Marin Bros., Inc., Abel Marin, and Jennifer Garcia (collectively the "Defendants") (Plaintiffs and Defendants are collectively referred to herein as the "Parties"), each acting by and through their undersigned counsel, respectfully file this Stipulation to Stay Proceedings. This Stipulation is the Parties' first request to stay the proceedings and is made for cause and not for the purpose of delay. This Stipulation is made with respect to the following:

1. The Court issued an Order Setting Bench Trial Date and Related Dates on October 27, 2023 [ECF No. 17]. The Court issued an Order granting the Parties' Stipulated Motion to Extend Deadlines on February 5, 2024 [ECF No. 24]. The current deadline for motions related to discovery is May 8, 2024. The current deadline for completion of discovery is

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1 June 7, 2024.

2 2. This case centers on alleged fringe benefit payment obligations arising from
3 Collective Bargaining Agreements (“CBA”) between the International Union of Painters
4 and Allied Trades District Council No. 5 (“Union”) and Defendant Marin Bros., Inc.
5 (“Marin Bros”).

6 3. The Plaintiffs, as employee benefit trust funds governed by the Employee
7 Retirement Income Security Act (“ERISA”), have alleged the right to be paid certain
8 fringe benefit contributions and related damages for work performed by Marin Bros’
9 employees pursuant to the terms of the CBA.

10 4. The Plaintiffs alleged in the Complaint [ECF No. 1] the right to perform a payroll
11 compliance review (audit) of Marin Bros’ payroll and related records to determine the
12 extent of contributions of contributions owed to the Plaintiffs. *See Cent. States, Se. & Sw.*
13 *Areas Pension Fund v. Cent. Transp., Inc.*, 472 U.S. 559, 573-74 (1985) (discussing the
14 role of a payroll auditor in determining unpaid contributions).

15 5. Since the filing of the Complaint, the parties have engaged in diligent discovery,
16 have worked together to avoid any court intervention of discovery issues, and have
17 cooperated with sharing documents and information so that an audit of Marin Bros’
18 records could be performed by a professional accounting firm engaged by the Plaintiffs.

19 6. The Plaintiffs’ auditor issued a report for the period March 1, 2022 through
20 December 31, 2022 (“First Audit Period”). The Plaintiffs’ auditor is now in the process of
21 completing an audit for the period of January 1, 2023 through December 31, 2024
22 (“Second Audit Period”). Plaintiffs’ auditor requires additional time to complete its
23 review.

24 7. Additionally, the Defendants engaged a separate professional accounting firm to
25 conduct their own review of Marin Bros’ payroll records. The Defendants’ auditor
26 recently issued its preliminary report but will need additional time to conduct a review

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and prepare a report for the Second Audit Period.

8. The parties expect that they will soon have competing audit reports that will need to be reviewed and evaluated before discovery in this case can continue.

9. Additionally, the Parties intend to evaluate whether settlement discussions will be fruitful and hope to engage in meaningful settlement negotiations once final audit results are issued by each auditor. The Parties are committed to their ongoing obligation to explore settlement options in this case.

10. The Parties agree that a ninety (90) day stay of proceedings is warranted due to the need to complete the audits and to allow for discussion of the results of the audits and potential settlement.

11. This Stipulation is made to avoid unnecessary expenditure of resources in litigation and is not intended to delay or for any improper purpose.

12. Accordingly, the Parties by and through their undersigned counsel, stipulate and agree, subject to the Court's approval, that these proceedings and all unexpired deadlines set forth in the Court's February 5, 2024 Order [ECF No. 24] shall be stayed for ninety (90) days from the date of entry of an Order on this Stipulation.

13. No later than two weeks prior to the expiration of the stay, the Parties will meet and confer and file a joint status report to update the Court on the status of the audits, settlement, and, if not settled, a schedule for how the Parties intend to complete discovery.

DATED this 7th day of May, 2024.

CHRISTENSEN JAMES & MARTIN

BUCHALTER

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ORDER

Good Cause Appearing, in accordance with the foregoing Stipulation, these proceedings and all unexpired deadlines set forth in the Court's February 5, 2024 Order [ECF No. 24] shall be stayed for ninety (90) days from the date of entry of this Order. No later than two weeks prior to the expiration of the stay, the Parties will meet and confer and file a joint status report to update the Court on the status of the audits, settlement, and, if not settled, a schedule for how the Parties intend to complete discovery.

DATED this 7th day of May, 2024.



Tana Lin
United States District Judge

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